IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.: 10 of 2002.

Decided on: 01.08.2007.

Vimal Krishan Sharma. … … Petitioner.

Versus

M/s Continental Foundation Joint Venture & Another. … … Respondents.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting?[1] *No.*

For the Petitioner:	**Mr. Neeraj Sharma, Advocate vice Mr. Jagdish Vats, Advocate.**
For Respondent No.1:	**Mr. Shrawan Dogra, Advocate.**

Rajiv Sharma, Judge:

A challenge has been laid to the award passed by the H.P. Labour Court, Shimla, dated 25.6.2001 in reference No.33 of 1998.

The State Government had made a reference to the H.P. Labour Court, Shimla in sequel to which the petitioner had filed his statement of claim. He had primarily contended before the Labour Court that he was appointed as Administrative Assistant in the respondent-Company and was confirmed on 15.2.1995. He also contended that he had been

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[1] *Whether reporters of local papers may be allowed to see the judgment? No.*

terminated illegally without following the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) on 11.11.1995. The employer had filed reply to the statement of claim and had taken the preliminary objection that the petitioner was not a workman, thus, he could not approach the Labour Court.

The Labour Court on the basis of the pleadings of the parties had answered the reference against the petitioner on 25th June, 2001.

Mr. Neeraj Sharma, appearing vice counsel for the petitioner had strenuously argued that the petitioner was a workman within the meaning of Section 2(s) of the Industrial Disputes Act, 1947 and he could not be removed without complying with the mandatory provisions of Section 25-F of the Act. Mr. Shrawan Dogra had supported the award dated 25.6.2001.

I have heard the parties and gone through the record.

The petitioner had appeared as PW-1 before the Labour Court and admitted in cross-examination that his post was administrative in nature. He also testified that in the absence of one Mr. Kaushal, he was the senior-most person who used to mark the presence of the staff in the transit office where 4/5 persons were working. Shri Vijay Singh-Faujdar had appeared as RW-1 on behalf of the Management and had testified that the petitioner was employed as a supervisor and eight persons were working in the transit office at Shimla

including cook, helper, courier, sweeper, time keeper etc. The Labour Court on the basis of the evidence led by the parties had come to the right conclusion that the petitioner was engaged in administrative-cum-supervisory capacity and thus could not be termed as workman. The Labour Court had also taken into consideration the appointment letter issued in favour of the petitioner and the duties being discharged by him.

There is neither any procedural irregularity nor any jurisdictional impropriety in the award dated 25th June, 2001 passed by the Labour Court and the same is up-held.

Accordingly, this petition is dismissed with no order as to costs.

(Rajiv Sharma) Judge.

August 1, 2007.
(sck)